



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,580	07/25/2003	Seh Joon Dokko	SI-0039	9531
34610 7590 09/24/2008 KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200				
EXAMINER				
BALAOING, ARIEL A				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
09/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Continuation of 11:

Regarding claim 32, in response to applicant's argument that modifying Crook with the teachings of Mills would destroy the express purpose of Crook (see page 7, last paragraph), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, MILLS teaches a base station that controls wireless traffic of a communication system and therefore can be seen as a base controller.

Furthermore, It should be emphasized that, in accordance with **MPEP 2114**, "apparatus claims must be structurally distinguishable from the prior art." *In re Danly*, 263 F. 2d 844, 847, 120 USPQ 528, 531 (CCPA 1959) it was held that apparatus claims must be distinguished from prior art in terms of structure rather than function. *In Hewlett-Packard Co. v Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990), the court held that: "Apparatus claims cover what a device is, not what it does" (emphases in original). To emphasize the point further, the court added: "An invention need not operate differently than the prior art to be patentable, but need only be different" (emphases in original).

As stated in the previous Office Action, base station controllers conventionally control assignment and routing for various mobile terminals. Therefore, the base station controller would be able to provide the various control processes provided in the claims and taught by MILLS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARIEL BALAOING whose telephone number is (571)272-7317. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Paul Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ariel Balaoing/
Examiner, Art Unit 2617

Application/Control Number: 10/626,580

Page 4

Art Unit: 2617

/A. B./

Examiner, Art Unit 2617